

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JOSE G. ALCANTAR,

Plaintiff,

v.

ALUM ROCK UNION ELEMENTARY
SCHOOL DISTRICT, ET AL.,

Defendants.

Case No.: C 12-00263 PSG

**ORDER TO REASSIGN CASE; AND
REPORT AND RECOMMENDATION
THAT COMPLAINT BE DISMISSED
WITH LEAVE TO AMEND**

On January 17, 2012, Plaintiff Jose G. Alcantar (“Alcantar”) proceeding *pro se* filed a complaint and an application to proceed *in forma pauperis*. Based on the application and the file herein,

IT IS HEREBY ORDERED that this case be reassigned to a District Court Judge with the recommendation that the complaint be dismissed with leave to amend.¹ A federal court must dismiss an *in forma pauperis* complaint if the complaint is: (1) frivolous; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such

¹ This court is ordering reassignment to a district judge because, absent consent of all parties, a magistrate judge does not have authority to make case-dispositive rulings. *See, e.g., Tripati v. Rison*, 847 F. 2d 548, 549 (9th Cir. 1988).

1 relief.²

2 In the complaint, Alcantar alleges unspecified discrimination based on origin, retaliation,
3 harassment, and bullying against himself and his Mexican students. While the complaint references
4 general violations of federal law, it fails to state a particular claim on which relief may be granted. A
5 district court nevertheless must give litigants an opportunity to amend their complaint “when justice
6 so requires.”³ A federal court also must liberally construe the “inartful pleading” of parties appearing
7 *pro se*.⁴ Accordingly, this court recommends that the district court dismiss the complaint but with
8 leave to amend.

9 **IT IS SO ORDERED.**

10 Dated: 3/1/2012

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12 PAUL S. GREWAL
13 United States Magistrate Judge
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26 ² See 28 U.S.C. §1915(e)(2); *see also* *Neitzke v. Williams*, 490 U.S. 319, 324 (1989).

27 ³ Fed. R. Civ. P. 15(a).

28 ⁴ *Hughes v. Rowe*, 449 U.S. 5, 9 (1980).